IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 4549 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SURAT JILLA KHADI GRAM UDYOG SANGH LTD. - Petitioner(s)
Versus
JAYSINH PARSHOTTAMBHAI PATEL & 7 - Respondent(s)

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Appearance :

MR SK BUKHARI for Petitioner(s) : 1,
None for Respondent(s) : 1, 3, 3.2.1, 3.2.2,3.2.3
MR TRILOK J PATEL for Respondent(s) : 1.2.1 - 3, 3.3.2,3.3.3
NOTICE NOT RECD BACK for Respondent(s) : 4 - 7.
- for Respondent(s) : 8,
Ms. Maithily Mehta, AGP for Respondent(s) : 8,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH
Date : 21/04/2006

ORAL JUDGMENT

Rule. Shri Trilok J. Patel, learned advocate waives service of Rule on behalf of private respondents and Ms. Maithili Mehta, learned AGP

waives service of Rule on behalf of the State. With the consent of the learned advocates appearing for the parties, the matter is taken up for final hearing today.

2. By way of this petition under Article 226/227 of the Constitution of India, the petitioner, who has purchased the land in question, has challenged the legality and validity of the judgment and order passed by the Principal Secretary [Appeals], Revenue Department, State of Gujarat, dated 20th May 2005 in dismissing the Revision Applications RTS Case No.59 of 2000 and RTS Case No. 60 of 2000 as well as the orders passed by the Deputy Collector, Olpad Prant, Surat dated 13th April 2000 in RTS Appeal No. 12/1999 and RTS Appeal No. 25/1999 in quashing and setting aside the Revenue Entry No. 2289.

3. It appears from the record that the petitioner has purchased the land in question from private respondents by registered sale deed and necessary entry in the Revenue record was mutated.

It appears that the petitioner purchased the land of Block No. 137 in 1984 and Block No. 138 in the year 1982. It appears from the record that the aforesaid entry came to be challenged by original owners and some of the owners before the Deputy Collector and the Deputy Collector, Olpad Prant, Surat by his order dated 13th April 2000 dismissed the Entries No. 2289 and 2279 by holding that the petitioner was not an agriculturist and that interest of some persons who were minors has not been considered. Being aggrieved and dissatisfied with the same, the petitioner preferred two Revision Applications before the Collector, Surat, being RTS Cases No. 59 and 60 of 2000 and the Collector, Surat by order dated 31.5.2001 dismissed both the aforesaid two Revision Applications against which the petitioner preferred Revision Application No. 34/2002 before the Principal Secretary (Appeals), Revenue Department, State of Gujarat and the Principal Secretary (Appeals), Revenue Department by impugned judgment and order dated 20th May 2005 dismissed the said Revision Application by confirming the order passed by both the authorities below.

4. Number of submissions have been made on behalf of the parties. However, it is required to be noted that as held by the Hon'ble Supreme Court as well as by this Court in catena of Judgements, an Entry made in a Revenue record does not confer any right, title or interest in favour of a party. It is also required to be noted that one Civil Suit is already pending with regard to the sale transaction in question being Civil Suit No. 478 of 2000. Considering the fact that the petitioner has purchased the land in question by registered Sale Deed and considering the provisions of the Bombay Land Revenue Code, necessary Entry is required to be mutated in the revenue records giving effect to the registered Sale Deed subject to ultimate outcome of the dispute pending between the parties. In this connection, it is necessary to refer the judgment in the case of ***Gandabhai Dalpatbhai Patel Vs. State of Gujarat and Others, reported in 2005 (2) GLH 1370*** as well as the judgment in the case of ***Jhaverbhai Savjibhai Patel, through POA holder Ashok J. Patel Vs. Kanchanben Nathubhai Patel and Others, reported in 2005 (3) GLH 657.*** Considering the aforesaid two

Judgments and considering the fact that the petitioner has purchased the property in question by registered Sale Deed, the orders passed by all the three authorities below, cancelling the aforesaid two Entries, are required to be quashed and set aside and the Entries No. 2279 and 2289, with respect to the lands in question in favour of the petitioner on the basis of the registered Sale Deed, are required to be restored. However, in view of pendency of the Civil Suit between the parties, it is made clear that the aforesaid two Entries will be subject to decision that may be taken by the Civil Court in Civil Suit No. 478 of 2000 and the Revenue authority is directed to make necessary additional Entries to the effect that the aforesaid Entries are subject to ultimate decision on Regular Civil Suit No. 478 of 2000.

5. For the reasons stated above and in view of the above observations and directions, the orders passed by all the three authorities below are quashed and set aside and the aforesaid two Entries are

restored. Rule is made absolute to the aforesaid extent with no order as to costs.

[M.R. Shah, J.]

RMR.